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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,715

02/27/2004

Al Harris

23-0332

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40158

7590

10/20/2005

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EXAMINER

JACKSON, TYRONE D

ART UNIT

PAPER NUMBER

2862

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,715

Applicant(s)

HARRIS, AL

Examiner

Tyrone Jackson

Art Unit

2862

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 16-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 13, 15 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/27/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The following informalities have been noted and require correction in response to this Office Action.

Reference numerals "2" and "40" which are referred to in the specification must be shown in the drawings.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 11, 16-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sirvent {FR 2762487}.

Regarding claims 1, 3 and 16, Sirvent discloses a metal detection system with a magnetometer having a transceiver (emitting and receiving coil) coupleable to conventional footwear, the system comprising a magnetometer assembly adapted for passing over a surface and detecting metal below the surface; a control assembly (electronic circuit) operationally coupled to the magnetometer assembly, the control assembly facilitating operational control of

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the magnetometer assembly; and a coupling means operationally coupling the magnetometer assembly to the conventional footwear (abstract).

Regarding claims 2, 4, 11, 17, 18 and 20, Sirvent discloses the system described above further comprising a cable assembly (6 wires) having a first end coupled to the magnetometer assembly and a second end coupled to the control assembly to allow for routing signal communication between the magnetometer assembly and the control assembly (Figure 1). It is an inherent step in conventional metal detection methodology to stop upon detection of the aural alert and then dig below the surface. Sirvent also discloses that the system further comprises a housing (bag), and the housing being coupleable to an article of clothing of a user facilitating hands-free operation. The control assembly additionally comprises an aural alert generator (audible alarm) for emitting an aural alert when the magnetometer assembly detects metal (abstract).

Regarding claim 5, Sirvent discloses the system described above, in which the coupling means further comprises a strap assembly 7 adapted for being secured around a heel portion of the conventional footwear, and the strap assembly having a first end positionable adjacent to a first side of the conventional footwear, a second end positionable along a second side of the conventional footwear and over a top of the conventional footwear, and the second end being selectively securable to the first end whereby the strap assembly is secured to the conventional footwear (Fig 1).

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirvent in view of Foerster {DE 3027189}.

Sirvent teaches the strap assembly as described above. Sirvent does not teach an extension means coupled to the strap assembly. Foerster shows a metal detection system attached to footwear that includes an extension means (17 carrier frame) operationally coupled between a strap assembly and a magnetometer assembly, with the extension means facilitating placement of the magnetometer assembly in front of the user (Fig 1).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to combine the extension mechanism taught by Foerster with the metal detection system taught by Sirvent for the purpose of moving the magnetometer outside of the sole where it would be less susceptible to damage because there would be much less direct pressure on the head. One skilled in the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

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4. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirvent in view of Ritter et al. {US 6606803}.

Sirvent teaches the magnetic detection assembly as described above comprising a strap, a housing for the control assembly, a cable assembly, and an aural alert generator. Sirvent does not show a strap assembly comprising hook and loop fasteners. Ritter et al. teaches that hook and loop fasteners are well known in the art as a fastening means for straps attached to footwear (column 6 lines 46-48). It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use hook and loop fasteners for the straps taught by Sirvent for the purpose of securing the user's foot using well known attachment mechanisms. One skilled in the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

***Allowable Subject Matter***

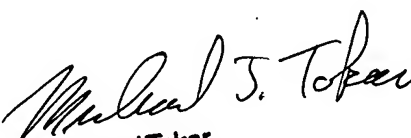
5. Claims 13, 15 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Remarks**

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tyrone Jackson



October 13, 2005  
Michael Tokar  
Supervisory Patent Examiner  
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